

The Pending Claims and the Amendments to the Claims

With the election of Group I in the election mailed 15 August 2005, Claims 21-25 stand withdrawn. With the entry of the above amendment to the claims, the pending claims are Claims 1-20, of which only Claims 1, 16, and 20 are independent, with Claims 2-15, 17-19, and 26 being dependent claims. The amendment of Claim 20 is to correct a typographical error. The amendment includes no new matter.

The 35 USC 103(a) Rejection of Claims 1-20

In section 5 of the 3 November office action, Claims 1-20 are rejected under 35 USC 103(a) as unpatentable over USPN 4,262,581, to Ferrell ("FERRELL") in view of USPN 6,241,392, to Ramirez ("RAMIREZ") and USPN 4,501,780, to Walters et al ("WALTERS et al"). The office action states that FERRELL discloses a set of bags made from a film, with the first set of bags comprising a first lay-flat bag and a second lay-flat bag joined along their respective lengths, an end seal extending across both the first bag and the second bag, with the first bag having a first side seal extending the length of the first bag and the second bag having a second side seal extending the length of the second bag, with the first bag being connected to the second bag in an area between the first side seal and the second side seal. Section 5 of the office action goes on to refer to various additional claim features as being disclosed in FERRELL. Finally, Section 5 of the office action identifies Col 6 lines 25-53 and Figure 9 of FERRELL as supporting all of the various statements set forth in Section 5.

In response, Applicant contends that Claims 1-20 are patentable over FERRELL in view of RAMIREZ and WALTERS et al. Contrary to the statement in Section 5 of the 3 November office action, Col 6 lines 25-53 and Figure 9 of FERRELL does not teach or suggest:

...a set of bags made from a film, with the first set of bags comprising a first lay-flat bag and a second lay-flat bag joined along their respective lengths, an end seal extending across both the first bag and the second bag, the first bag having a first side seal extending the length of the first bag, and the second bag having a second side seal extending the length of the second bag, with the first bag being connected to the second bag in an area between the first side-seal and the second side-seal,...

[Applicant's Claim 1]

A review of Col 6 lines 25-53 of FERRELL reveals that FERRELL discloses the folded and gusseted panels of FIG. 9 as being "...adapted to be separated into two simultaneous series of bags 73 as best visualized in FIG. 10." See Col 6 lines 30-32 of FERRELL. Thus, turning to FIG. 10 of FERRELL, it is clear that the pairs of bags 73 are not two bags "...joined along their respective lengths...", and also do not have "...an end seal extending across both the first bag and the second bag, with the first bag having a first side seal extending the length of the first bag and the second bag having a second side seal extending the length of the second bag...." More particularly, bags 73 in Fig. 10 of FERRELL were originally a part of material M and gusseted panels 23. As stated at Col 6 lines 29-40 of FERRELL, series of bag 73 are separated from material M by transverse tear seals 74. If these "tear seals 74" are considered as corresponding with Applicant's "end seals", then it becomes clear that bags 73 in Fig. 10 are not are not connected to one another in an area between the first side seal and the second side seal, with each of these side seals running the length of the each of bags 73. Rather, bags 73 are devoid of side seals running their respective lengths. The "fasteners 21, 22" referred to at Col 6 lines 36-37 of FERRELL (illustrated in Fig. 9 of

FERRELL) are not “side seals” running the respective lengths of each of bags 73. Rather, the fasteners are “separable”, and comprise a male profile 21 and female profile 22, and are in separable interlocked relationship. See FERRELL at Col. 3 lines 6-17. The fasteners allow product to be inserted into the bag when opened, and are then interlocked to prevent the product from escaping from the bag when closed. As such the fasteners do not correspond with Applicant’s recited “side seal”.

On the other hand, if transverse tear seals are considered to be side seals (and in effect, they are side seals, because they run along the side edges of each of bags 73 in Fig. 10, i.e., between the fasteners at the top of each bag 73 and the gusset forming the bottom of each bag 73), then it is clear that bags 73 have no end seals. Rather, the bottoms of bags 73 are formed by gussets, not end seals.

Thus, FERRELL fails to teach or suggest the does not teach or suggest Applicant’s recited:

...set of bags made from a film, with the first set of bags comprising a first lay-flat bag and a second lay-flat bag joined along their respective lengths, an end seal extending across both the first bag and the second bag, with the first bag having a first side seal extending the length of the first bag and the second bag having a second side seal extending the length of the second bag,...
[Applicant’s Claim 1]

As a result, it is apparent that the 3 November office action does not set forth a prima facie case of obviousness for any one or more of Applicant’s Claims 1-20.

The only additional statement in the office action directed to the bag side seals is found in on Page 4 of the office action, as follows:

Regarding Applicant’s claim 4, Ferrell discloses that the end-seals, the first side-seal, and the second side-seal are hear (sic, heat) seals (*col. 6, lines 21-24*). [3 November 2005 office action, page 4 lines 13-15.]

Applicant respectfully disagrees with this statement. Col. 6 lines 18-24 of FERRELL is as follows:

As shown, the material M advances above the pinch rollers **38** over a guide roller **69** to a looper **70** from which the material passes under guide roller **71** to a bag forming station **72** employing known techniques for electronic or heat sealing the folded and gusseted bag material and more particularly the folded and gusseted panels **23** and separating the same into individual bags **73**. [FERRELL, Col. 6 lines 18-24]

As tear seals 74 appear to be the only heat seals disclosed in FERRELL, this portion of FERRELL must be referring to tear seals 74. Tear seals 74 are indeed made across the film, i.e., transverse to the direction the film is being forwarded. Since the resulting bags are opened and closed along separable fasteners 21 and 22, tear seals 74 do, in effect, become “side seals” which run the “length” of each of bags 73 (see Fig. 10). Applicant’s disagreement with the statement in the office action focuses upon reference to FERRELL’s alleged disclosure of a heat seal which forms an “end seal” of the bags of FERRELL. If tear seals 74 are considered side seals with respect to bags 73, then where does FERRELL disclose heat seals that serve as “end seals”? Applicant contends that FERRELL does not teach or suggest the combination of: (a) heat seals that serve as side seals and (b) heat seals that serve as end seals. Moreover, the office action does not direct attention to any specific portion(s) of FERRELL that teaches this combination of features. As such, this is yet another reason that the office action fails to set forth a prima facie case of obviousness of Claims 1-20.

There is yet a third reason that the office action fails to set forth a prima facie case of obviousness of any one or more of Applicant’s claims 1-20. The office action admits that “Ferrell fails to disclose that both the first bag and the second bag have a total free shrink at 185°F of at

least 10 percent or 15 percent, and a transverse free shrink at 185°F which is greater than a longitudinal free shrink at 185°F.” However, the office action goes on to state that RAMIREZ discloses a bag having a total free shrink at 185°F of at least 15 percent, and that WALTERS et al discloses that the transverse free shrink at 185°F is greater than the longitudinal free shrink at 185°F. From this combination of disclosures, the office action concludes that it would have been obvious to provide the bags of FERRELL with a total free shrink at 185°F of at least 15 percent as taught by RAMIREZ, and also that the transverse free shrink at 185°F would exceed the longitudinal free shrink at 185°F, as taught by WALTERS et al.

Applicant respectfully disagrees with this conclusion and with the basis for this conclusion in the combination of FERRELL, RAMIREZ, and WALTERS et al. Applicant’s Claim 1 is directed to a set of bags in which the transverse free shrink at 185°F is greater than the longitudinal free shrink at 185°F. Note that in Applicant’s bag as set forth in Fig. 3, the length of each of the bags in the set of bags runs along the length of the film tubing from which the bags are made, and the width of each bag the set of bags runs across the width of the film tubing from which the bags are made. Each bag has one seal running the length of the bag, and one seal running across the width of the bag.

Such is not the case for the bags of FERRELL. Bags 73 in Fig. 10 are derived from the film tubing of Fig. 9 of FERRELL. As such, each of bags 73 have transverse tear seals 74 running across the tubing. However, these transverse tear seals run *along the length* of each of bags 73. This is apparent because bags 73 open up using separable fasteners 21, 22 running the length of panels 23 illustrated in Fig. 9 and Fig. 10 of FERRELL. Thus, the bags of FERRELL have a length

which runs across the width of the tubing. If the film tubing is provided with greater transverse shrink than longitudinal shrink, i.e., as disclosed in WALTERS et al, the result is that the bags of FERRELL have greater shrink along their length than across their width. This is the opposite of Applicant's set of bags as recited in Applicant's claim 1. Accordingly, this is yet a third reason that no prima facie case of obviousness has been made out by the office action.

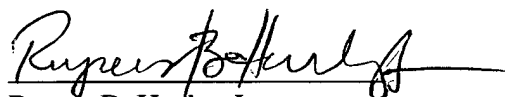
Information Disclosure Statement

The undersigned is filing an IDS concurrently herewith. Consideration of the IDS is respectfully requested.

Conclusion

In view of the amendments and remarks set forth above, reconsideration of the patentability of Claims 1-20 is respectfully requested, with a view towards allowance.

Respectfully Submitted,



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